

FILED
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NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE
SUSPENSION OR REVOCATION OF
THE LTCENSE OF

Administrative Action

JERROLD GOLDSTEIN, D.O. : ORDER OF TEMPORARY SUSPENSION
LICENSE NO. MB22185

TO PRACTICE MEDICINE & SURGERY
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Medical Examiners on the application for a temporary suspension of Respondent's license to practice medicine brought by Attorney General Peter C. Harvey, Adriana Baudry, Deputy Attorney General, **appeasing**. An Order to Show Cause was signed by Glenn Farrell, Esq., Board Vice President, scheduling a hearing before the Board on August 11, 2004. The Verified Complaint filed simultaneously with the Order to Show Cause alleged in one count that respondent, because of a recurrence of a substance abuse problem and a recent suicide attempt, lacked the present capacity to discharge the functions of a licensee or to practice with reasonable skill and safety and that his conduct -- resumption of substance abuse and

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DIV. OF LAW

the July 6, 2004 suicide attempt constituted a clear and imminent danger to the public health, safety and welfare.

In support of the application the Attorney General relied upon a certified copy of a police report concerning respondent's July 6, 2004 suicide attempt, a certification and report of Louis Baxter, Sr., M.D. F.A.S.A.M, the Executive Medical Director of the Physicians' Health Program reporting Dr. Goldstein's relapse into the use of Vicoprofen, detoxification at White Deer Run Treatment Center from June 4, 2004 to June 8, 2004, re-enrollment in the Physicians' Health Program and subsequent suicide attempt and hospitalization. The Attorney General also relied upon a series of six prior Board Orders beginning with a March 1980 Order revoking respondent's license, three Orders granting restricted licensure dated 1983, 1984 and 1986 and two Consent Orders regarding misrepresentations on license applications dated 1995 and 2000."

At the hearing, Deputy Attorney General Baudry presented the matter on behalf of the Attorney General; respondent appeared with counsel Joseph Gorrell, Esq., of Wolf, Block. Although respondent filed an answer generally denying the allegations contained in the Verified Complaint, at the time of hearing he testified and acknowledged that he had recently been detoxicated from opiate addiction after a relapse resuming the use of

A full list of the exhibits entered into evidence by stipulation is attached,

controlled substances for a period of over a year, initially due to dental pain. He explained to the Board that he had undergone extensive dental work and had been prescribed Vicoprofen and Vicodan over a one year period at which point he began using the medication even when he had no pain. He had filled approximately 25 prescriptions of 20-25 pills each over the one year period. He stockpiled the medication by refilling prescriptions which had been only partially used. He claimed to have abused controlled substance when he had no dental pain for a period of about one month, until he entered a detoxification facility for 5 days in June 2004. He admitted that his office manager had confronted him regarding changes in his behavior and argumentiveness prior to seeking detoxification treatment. He further acknowledged that he reaffirmed his commitment to the Physicians' Health Program on June 22, 2004, but prior to beginning urine monitoring, he made what he described as a "suicidal gesture" on July 6, 2004. Initially he acknowledged drinking half a glass of wine, half a glass of vodka, taking 1-2 sleeping pills, and 1 Vicodan, then turning on a car inside his closed garage, and before losing consciousness, calling his office manager for help. Upon cross-examination and Board questioning, Respondent further acknowledged that he may have taken 2 Vicodan and 2 Sonata, that he a bottle of wine and had a half empty bottle of Vodka with him, and that both cars in the closed garage were running at the time of the suicide attempt. The police

report (P-9) supporting the Attorney General's application reflects that the police officers had to break through the window of the garage to rescue respondent. He was taken unconscious by the emergency squad to Morristown Memorial Hospital where he testified he woke up. He remained under psychiatric care for approximately 6 days. He also admitted that between the time he reentered the Physicians' Health Program on June 22, 2004 and the suicide attempt of July 6, 2004, he had a phone conversation with his adult son, who is a physician, which resulted in the Warren Police Department coming to his home and transporting him to Somerset Hospital. According to respondent, his son had reported that "they should take a look at me because I'm a danger." He was transferred from Somerset to Fair Oaks in order to be in a psychiatric facility, and remained for 3 days. Within 4 days of his release from that psychiatric hospital, he attempted to take his own Life and was admitted to Morristown Memorial Hospital.

Although respondent acknowledges a relapse, he takes the position that he should be permitted to practice ~~ass~~ he had been sober for 24 years, that his return to abuse of controlled substances began legitimately for dental pain and that the relapse was for only a one month period. He further alleges that he sought help and has been urine monitored and treated since his release one month ago from Morristown, by a psychiatrist and social worker, 3-4 times each. In support of his position, respondent submitted 4

urine screen results through July 23, 2004, and a letter of the PH? (R-1), a certification of psychiatrist Martin Silverman, M.D. (R-2) and a certification of social worker Peter Gibb (R-3). The psychiatrist opines that respondent did not make a "serious attempt to commit suicide," and that his addiction problem is "under control. at this time."

DISCUSSION

The totality of the record in this matter portrays a Licensee who suffered a recent relapse of prior drug and alcohol abuse and opiate addiction including use over a one year period culminating in admitted abuse of and addiction to stockpiled controlled substances; recent manifestations of impaired judgment including notice of altered behavior in the office, two admissions to psychiatric units, psychiatric illness including depression, and a suicide attempt, This matter involves a practitioner with severely altered judgment unable to make clear decisions. The Board finds that due to the recency of the events and the lack of a significant track record of sobriety and psychiatric treatment, the Board has no choice but to protect the public safety, health and welfare from the significant risk of danger posed by any - medical practice by respondent at this time. The Physician's Health Program, which had monitored respondent for many years, and which regularly submits position statements to the Board supportive of a return to practice, did not do so. Indeed, the communications

submitted by the PHP indicated only that four urine screens, over a 12 day period beginning July 15th, were negative. The Board has frequently and consistently required a documented period of sobriety of a minimum of three months in circumstances involving a relapse.

We are also not convinced by respondent's claim that the events of July 6, 2004 were not a "true suicide attempt." The facts are to the contrary. Respondent attempts to downplay the incident as he made a phone call to his office manager and was eventually rescued. However, we do not find it credible that ingestion of a variety of sleeping pills, controlled substances and alcohol, (within 30 days of release from detoxification treatment) while running 2 automobiles in an enclosed space (a garage) to which access could only be gained by breaking in, was simply a "gesture." Respondent acknowledges little memory of the events as he soon became unconscious., and had to be removed by emergency personnel, after he was eventually found by the police.' Utilizing our expertise we find this was a suicide attempt and demonstrates such flawed judgment that medical practice cannot be permitted at this time.

'We put little reliance on R-2 and R-3, the brief reports submitted by practitioners who have had an opportunity to meet with respondent only 3 or 4 times, and who do not reveal the information they have had available to review.

Finally, it has been suggested that respondent is fit to practice as he has been in voluntary treatment and monitored since his relapse and suicide attempt. However, the records of such treatment including but not limited to discharge summaries, prognoses, and neuro-cognitive testing which respondent acknowledges receiving, have not been supplied. Without review of such records we are not able to favorably judge the efficacy of the treatment. Thus we reach the conclusion that no alternative will adequately protect the public other than to temporarily suspend respondent's license, and such suspension is effective immediately.

THEREFORE IT IS on this 24th day of August, 2004,

ORDERED:

1. Effective upon oral announcement of this Order on the record on August 11, 2004, respondent's license to practice medicine and surgery in the State of New Jersey shall be temporarily suspended.

2. That respondent shall cease, desist and refrain from the practice of medicine and surgery in the State of New Jersey and shall immediately surrender his: engrossed wall certificate, his current renewal and his CDS and DEA permits to Mr. William Roeder, Executive Director of the Board of Medical Examiners at 140 E. Front Street, 2nd Floor, P.O. Box 183 Trenton, New Jersey 08625-0183.

3. Respondent shall be given Leave to apply for dissolution and/or modification of this Order at such time as he can demonstrate fitness to practice medicine and surgery in a manner consistent with the public's health, safety and welfare. Any such application shall include:

a) Urine reports supporting a minimum of 3 continuous months of documented sobriety and documentation of compliance with all PHP requirements.

b) Production by respondent for Board review of all records of respondent's medical and psychiatric treatment and psychometric and neuro-cognitive testing since his relapse, including but not limited to all records from White Deer Run, Morristown Memorial Hospital, Somerset and Fair Oaks Hospitals, Dr. Silverman and Mr, Gibbs.

c) Production for review by the Board of results of an independent psychiatric evaluation at respondent's expense with a Board approved psychiatrist, aware of respondent's history and provided with all relevant records.

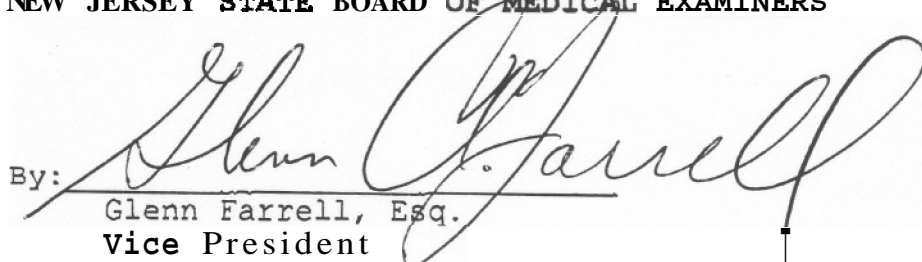
d) An updated report from the PHP after all treatment and diagnostic testing records have been supplied, which report recommends Respondent's return to active practice,

Upon review of all documentation submitted under paragraphs 3a-3d above, the Board shall determine whether the proofs warrant an appearance granted before a Committee to further consider and determine whether modification or dissolution of this Order is appropriate.

4. In the event respondent fails to apply, or fails to demonstrate under paragraph 3 of this order, that his fitness to practice warrants reconsideration of this Order by the Board, then the temporary suspension ordered herein shall continue pending the Board's disposition of the plenary proceedings in this matter.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By:


Glenn Farrell, Esq.
Vice President

EXHIBITS ENTERED INTO EVIDENCE

- P-1 Final Order of Board of Medical Examiners 3-28-80 (3 pages)
- P-2 Final Order of Limited Reinstatement of License on Conditions 1-7-83, (5 pages)
- P-3 Order of Limited Reinstatement of License an Conditions, (11-15-84 (3 pages)
- P-4 Amended Order of Limited Reinstatement of License on Conditions, 2-20-86, (3 pages)
- P-5 Consent Order, 10-16-95, (3 pages)
- P-6 Consent Order, 3-8-00, (4 pages)
- P-7 Certification of Louis E. Baxter, Sr., M.D., FASAM, 7-22-04, with attachment (5 pages)
- P-8 Letter to William V. Roeder from Joseph M. Gorrell, 7-15-04
- P-9 Warren Township Police Department, Certified True Copy, 7-6-04 (8 pages)
- R-1 Letter from David I. Canavan, M.D. to Joseph M. Gorrell, 8-9-04, with 4 attached urine screen results, (5 pages)
- R-2 Certification of Martin A. Silverman, M.D., 8-5-04, (2 pages)
- R-3 Certification of Peter Gibb, L.C.S.W., 8-6-04, (2 pages)

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10, 2000

All **licensees** who are the **subject** of a disciplinary order of the Board **are** required to provide the information required on the **Addendum** to these Directives. The information **provided** will **be** maintained **separately** and will not **be** part of the **public** document filed with the **Board**. Failure to provide the information required may result in further disciplinary action for failing to cooperate with **the** Board, **as** required by **N.J.A.C. 13:45C-1 et seq.** Paragraphs 1 through 4 **below shall apply when** a license is **suspended** or revoked or permanently **surrendered**, with or without **prejudice**. Paragraph 5 applies to **licensees** who **are** the **subject** of an order which, **while** permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The **licensee** shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, **New Jersey** 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee **holds** a Drug Enforcement Agency (DEA) registration, he or she shall promptly **advise** the **DEA** of the licensure action. (With respect to suspensions of a finite **term**, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her **DEA** registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in **this** State. This prohibition not only **bans** a licensee from rendering professional services, but **also** from providing an opinion as to professional practice or **its** application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively **advise** patients or others of the revocation, suspension or surrender, the licensee **must** truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is **also** prohibited from occupying, sharing or using office space in which another **licensee** provides health care services. The disciplined licensee may contract for, accept payment **from** another licensee for or rent at fair market value office premises and/or equipment. In no **case** may the disciplined licensee authorize, allow or condone **the** use of his/her provider number **by** any health care practice or any other licensee or health care provider. (In situations where the licensee has **been** suspended for less than one year, **the** licensee may accept payment from another professional who is using his/her office during the period that the licensee **is** suspended, for the payment of salaries for office staff employed at the time of **the Board** action.)

A licensee whose license **has** been **revoked, suspended** for one (1) year or more or **permanently** surrendered must remove signs and take affirmative action to stop advertisements **by** which his/her eligibility to practice is **represented**. The licensee must **also take** steps to **remove his/her name** from **professional** listings, telephone directories, professional stationery, **or** billings. If the **licensee's name** is utilized in a group practice title, it **shall be deleted**. Prescription **pads** bearing the licensee's name **shall be** destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must **be** filed. If no other licensee is providing services at the location, all medications must **be removed and** returned to the manufacturer, if **possible, destroyed** or **safeguarded**. (In situations **where** a license has **been** suspended for **less** than one year, prescription **pads and medications** need not **be** destroyed **but must be** secured in a **locked** place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee **shall** not charge, **receive** or share in any fee for professional services rendered **by** him/herself or others **while barred** from engaging in the professional practice. The licensee may **be compensated** for the **reasonable** value **of** services **lawfully rendered and disbursements** incurred on a **patient's** behalf prior to the effective **date** of the Board action.

A licensee **who is** a shareholder in a professional **service corporation** organized to **engage** in the professional practice, whose license **is revoked, surrendered** or **suspended** for a term of one (1) year or more **shall be deemed to be** disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee **shall** divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee **who is** a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within **90 days** following the the entry of the **Order** rendering the licensee disqualified to participate in the applicable form of **ownership**. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation **must be dissolved** within **90 days** of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is **closed** or transferred to another location, the licensee **shall** ensure that during the three (3) month period following the effective **date** of the disciplinary order, a **message will be delivered to** patients calling the former office premises, advising where records may **be** obtained. The **message** should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated **by** means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.



NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to **N.J.S.A. 52:14B-3(3)**, all orders of the New Jersey State **Board** of Medical Examiners are available **for** public inspection. Should any inquiry **be** made concerning the status of a **licensee**, the inquirer will **be** informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings **on** motions or other applications which are conducted as public hearings **and** the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 **CFR** Subtitle A 60.8, the **Board** is obligated to report to the National Practitioners **Data Bank** any action relating to a physician which is **based on** reasons dating to professional competence or professional conduct:

- (1) **Which revokes** or suspends (or **otherwise** restricts) a license,
- (2) Which censures, reprimands **or** places on probation,
- (3) **Under** which a license is surrendered.

Pursuant to 45 **CFR** Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, **such** as revocation or suspension of a license (and the length of **any such** suspension), reprimand, censure **or** probation or **any** other loss of license or the right to **apply** for, or renew, a license of the provider, supplier, or practitioner, whether by operation of **law**, voluntary surrender, non-renewability, or **otherwise**, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to **N.J.S.A. 45:9-19.13**, if the **Board** refuses to issue, **suspends, revokes** or otherwise places conditions on a license or permit, it is obligated to notify each licensed health **care** facility and health maintenance organization with which a licensee is **affiliated** and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly **basis**.

Within the month following entry of an order, a summary of the order will appear on the public **agenda** for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an **order**, a summary of **the order will** appear in a Monthly Disciplinary Action Listing which is made available to those **members of the** public requesting a copy.

On a periodic **basis** the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by **the** Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney **General** from disclosing any public document.